

1 JOHN J. SANSONE, County Counsel
 2 County of San Diego
 3 By WILLIAM H. SONGER, Senior Deputy (SBN 153733)
 4 1600 Pacific Highway, Room 355
 5 San Diego, California 92101-2469
 Telephone: (619) 531-4749
 Facsimile: (619) 531-6005

6 Attorneys for Defendant County of San Diego

FILED
 08 APR -8 PM 4:02
 CLERK, U.S. DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA
 BY: ECL DEPUTY

7
 8 **IN THE UNITED STATES DISTRICT COURT**
 9 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

10
 11 KATHLEEN COYNE, an individual

12 Plaintiff,

13 v.

14 COUNTY OF SAN DIEGO, a public
 15 entity; COUNTY OF SAN DIEGO
 16 DEPARTMENT OF THE PUBLIC
 DEFENDER, a public agency; and DOES
 1-25, inclusive

17 Defendants.

18 } CASE NO. 108 CV 0639 JLS LSP

19 } **NOTICE OF REMOVAL**

20 **TO: THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN**
DISTRICT OF CALIFORNIA

21 Comes now Defendant, County of San Diego, by and through its undersigned
 22 counsel, and hereby gives Notice of Removal of the civil action entitled Kathleen Coyne,
 23 v. County of San Diego, et al., Case No. 37-2008-00078991-CU-OE-CTL, from the
 24 Superior Court of the State of California, in and for the County of San Diego, Central
 25 Division, to the United States District Court for the Southern District of California. In
 26 support thereof, Defendant respectfully states to this honorable Court as follows:

27 1. Pursuant to the provisions of 28 U.S.C. sections 1441 et seq., defendant
 28 hereby removes this action to the district court.

1 2. The Complaint in this action, a copy of which is attached as Exhibit A,
2 attempts to assert retaliation claims under Title VII, 42 U.S.C. section 2000e-3(a) over
3 which the district court would have original jurisdiction.

4

5 DATED: JOHN J. SANSONE, County Counsel

6 4-8-08

7 By 
8 WILLIAM H. SONNER, Senior Deputy
9 Attorneys for Defendant County of San Diego

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1 **LAW OFFICE OF MARK ALAN BENNETT**
 2 **Mark A. Bennett [SBN 175974]**
 3 1111 Sixth Avenue, Suite 404
 San Diego, CA 92101
 Telephone: (619) 237-5308c
 Facsimile: (619) 237-5309

CIVIL
CLERK'S OFFICE 9

7/22 FEB 29 P 1:44

4 Attorneys for Plaintiff
 5 KATHLEEN A. COYNE

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8 **SUPERIOR COURT OF CALIFORNIA**

9 **COUNTY OF SAN DIEGO - CENTRAL DIVISION**

10 KATHLEEN A. COYNE, an individual;) CASE NO. 37-2008-00078991-CU-OE-CTL
 11 Plaintiff,) **COMPLAINT FOR DAMAGES**
 12 v.)
 13 COUNTY OF SAN DIEGO, a public)
 entity; COUNTY OF SAN DIEGO,)
 14 DEPARTMENT OF THE PUBLIC)
 DEFENDER, a public agency; and DOES 1)
 15 through 25, inclusive,)
 16 Defendants.)
 17)
 18)

1. Sex Discrimination [Govt. Code §12940(a)];
 2. Retaliation [Govt Code §12940(h)];
 3. Retaliation (42 U.S.C. 2000e 3(a)]

19 Plaintiff alleges:

20 **ALLEGATIONS REGARDING JURISDICTION AND VENUE**

21 1. At all relevant times herein mentioned, Plaintiff KATHLEEN A. COYNE
 22 ("Coyne") was an adult female resident of the County of San Diego, State of California.

23 2. At all relevant times mentioned herein, Defendant THE COUNTY OF SAN
 DIEGO ("County") was a political subdivision of the State of California and a public entity.

24 3. At all relevant times mentioned herein, Defendant THE OFFICE OF THE
 PUBLIC DEFENDER ("Public Defender") was a Department within the County of San Diego,
 charged with providing legal services for indigent criminal defendants.

25 4. The true names and capacities of DOES 1 through 25 are unknown to Plaintiff.

1 Coyne will seek leave to amend this complaint to insert their true names and capacities when the
2 same have been ascertained. Coyne is informed and believes and thereon alleges that each such
3 fictitiously named Defendant is liable to Coyne for the acts, events and occurrences alleged
4 herein as a result of said Defendant's relationship to the remaining Defendants, or by
5 participation in said acts, events and occurrences.

6 5. Coyne is informed and believes and thereon alleges that except when otherwise
7 alleged, each of the Defendants herein mentioned was the agent, employee or representative of
8 the remaining Defendants and was acting within the course, scope and authority of said
9 relationship.

10 6. The wrongful acts and omissions alleged to have occurred herein were performed
11 by managing agents, servants, and employees of Defendants or were ratified by its managing
12 agents, servants, and employees.

13 7. At all relevant times herein mentioned, County was an employer as that term is
14 defined by Govt. Code §§12940 *et seq.*, and Cal. Code of Reg. §7286.5(a).

15 8. Jurisdiction is proper in the Superior Court because the amount in controversy is
16 in excess of \$25,000 with respect to Plaintiff's claims.

17 9. Venue is proper in San Diego County because the wrongful acts of Defendants
18 occurred within the County and because Defendants do business within the County of San
19 Diego.

20 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

21 10. Coyne began practicing law in 1982 and began working as a Deputy Public
22 Defender in San Diego County in January 1989. For her entire career Coyne's practice has been
23 exclusively devoted to indigent criminal defense. She has extensive experience in complex
24 defense litigation, especially in cases involving complicated psychological issues, coerced
25 confessions, eyewitness identification, and child abuse and molestation.

26 11. In recognition of her superior skill in representing indigent criminal defendants,
27 Coyne has received numerous awards including Public Defender of the Year from the California
28 Public Defender's Association; Trial Lawyer of the Year from the Criminal Defense Bar of San

1 Diego; the Skip Glenn Award for "extraordinary accomplishments by a young defense lawyer"
2 from the California Attorneys for Criminal Justice; the Defender Organizations of San Diego
3 County's E. Stanley Conant Award for "efforts to protect the rights of the indigent accused." and
4 she has been named one of San Diego County's Top Attorneys by the San Diego Daily
5 Transcript. Coyne's work has been featured extensively in local, state, and nation-wide print
6 media, and she has appeared as a legal expert on several nationally-broadcast television
7 programs.

8 12. Coyne began handling felony matters in the El Cajon Branch the San Diego
9 Superior Court in September 1999. In or about January 2006 Coyne reached an agreement with
10 the Public Defender, Steven J. Carroll, to the effect that she would remain in the El Cajon
11 Branch until at least June 2009, so that she could maintain her full case-load while attending to
12 the special needs of her learning-disabled son.

13 13. On or about November 21, 2006, the Public Defender announced the results of
14 the Deputy Public Defender class IV to class V promotions. In this round of promotions 14
15 Deputy Public Defenders were promoted from class IV to class V; of this number, only two were
16 women.

17 14. In or about January 2007, four of the class IV female candidates who were passed
18 over for promotion filed a civil service administrative action appealing their denial of
19 promotion and alleging that they were not promoted because of a longstanding pattern and
20 practice of gender bias within the Department of the Public Defender.

21 15. On or about March 7, 2007, Coyne spoke before the County Commission on the
22 Status of Women in support of the four unsuccessful female candidates who were pursuing their
23 remedies against the County and the Department. During her presentation Coyne detailed her
24 experience with the "glass ceiling" in the Department; noted the lack of women in the highest
25 levels of the Department and in supervisory positions; and related how she had been passed over
26 in her own efforts to attain a supervisory position in favor of male Deputy Public Defenders who
27 were junior to her in grade and experience.

28 16. On or April 12, 2007, Coyne was notified that she was to be transferred from her

1 long time duty assignment in the El Cajon Branch to the Juvenile Delinquency Branch in
2 downtown San Diego. Coyne did not request the transfer, nor did she have any experience
3 representing juvenile defendants. Coyne requested the transfer be reconsidered, but her request
4 was denied and the transfer became effective May 18, 2007. This action was in retaliation for
5 Coyne's longstanding opposition to gender bias in the Department and for her support of the
6 four women who were challenging the results of most recent round of competitive promotions.

7 **FIRST CAUSE OF ACTION**

8 **Sex Discrimination [Govt. Code sec. 12940(a)]**

9 **As to all Defendants**

10 17. Coyne realleges and incorporates herein by reference all preceding paragraphs.

11 18. At all relevant times mentioned herein the California Fair Employment and
12 Housing Act ("FEHA"), Government Code sections 12900, *et seq.*, was in force and effect, and
13 was applicable to Plaintiff's employment with the County.

14 19. At all relevant times mentioned herein Coyne was an "Employee" as defined by
15 Government Code section 12926(c).

16 20. At all relevant times mentioned herein the County was an "Employer" as defined
17 by Government Code section 12926(d).

18 21. Government Code section 12940(a) states that it is an unlawful employment
19 practice for an employer "to discriminate against [a] person in the terms, conditions, or privileges
20 of employment" based on the person's sex.

21 22. As set forth in detail above, Defendants violated Government Code Section
22 12940(a) by knowingly creating a working environment within the Department permeated with
23 bias against women; for discriminating against Coyne in the terms, conditions, and privileges of
24 employment by transferring her because of her expressed opposition for longstanding the pattern
25 and practice of gender bias within the Department

26 23. As a further direct and proximate result of Defendants' conduct, Coyne has
27 suffered the loss of promotion and supervisory opportunities, severe psychological and
28 emotional injury, mental distress and shock, humiliation, chagrin, worry, and oppression of a

1 lasting nature. The full amount of the Coyne's damages are unknown, but are within the
2 jurisdiction of this Superior Court.

3 24. Coyne has exhausted all necessary administrative remedies by filing complaints
4 of discrimination with the Department of Fair Employment and Housing, and receiving right-to-
5 sue letters.

6 25. As a further direct and proximate result of Defendants' conduct, Coyne has been
7 required to obtain legal counsel to protect her rights, and have thereby incurred attorneys' fees in
8 an amount to be proven at the time of trial. Pursuant to Government Code section 12965(b),
9 Coyne requests an award of reasonable attorneys' fees against Defendants.

SECOND CAUSE OF ACTION

Retaliation - Govt. Code Section 12940(h)

As to All Defendants

13 26. Plaintiff realleges and incorporates by reference all preceding paragraphs as
14 though fully set forth herein. 8

15 27. At all relevant times mentioned herein the California Fair Employment and
16 Housing Act (“FEHA”), Government Code sections 12900, *et seq.*, was in force and effect, and
17 was applicable to Coyne’s employment with County of San Diego.

18 28. Government Code section 12940(h) makes it unlawful for “an employer . . . or
19 person to discharge, expel, or otherwise discriminate against any person because the person has
20 opposed any practices forbidden under this part, or the person has filed a complaint, testified, or
21 assisted in any proceeding under this part.”

22 29. Beginning on or about April 12, 2007, and continuing through the present time,
23 Defendants, and each of them, violated Government Code section 12940(h) by adversely
24 transferring Coyne to from the El Cajon Branch to the Juvenile Delinquency Branch in San
25 Diego as retaliation for her opposition and/or complaints about gender discrimination which she
26 reasonably believed violated Government Code section 12900, et seq.

27 30. As a further direct and proximate result of Defendants' conduct, Coyne has
28 suffered the loss of promotion and supervisory opportunities, severe psychological and

1 emotional injury, mental distress and shock, humiliation, chagrin, worry, and oppression of a
2 lasting nature. The full amount of the Coyne's damages are unknown, but are within the
3 jurisdiction of this Superior Court.

4 31. Coyne has exhausted all necessary administrative remedies by filing complaints
5 of discrimination with the Department of Fair Employment and Housing, and receiving right-to-
6 sue letters.

7 32. As a further direct and proximate result of Defendants' conduct, Coyne has been
8 required to obtain legal counsel to protect her rights, and have thereby incurred attorneys' fees in
9 an amount to be proven at the time of trial. Pursuant to Government Code section 12965(b),
10 Coyne requests an award of reasonable attorneys' fees against Defendants.

THIRD CAUSE OF ACTION

Retaliation - Title VII 42 U.S.C. 2000e-3(a)

As to All Defendants

14 33. Plaintiff realleges and incorporates by reference all preceding paragraphs as
15 though fully set forth herein.

16 34. The anti-retaliation provision in Title VII, 42 U.S.C. 2000e-3(a) makes it
17 unlawful for an employer to discriminate or retaliate against an employee or job applicant who
18 has participated in a Title VII proceeding or opposed practices prohibited by Title VII.

19 35. Beginning on or about April 12, 2007 and continuing through the present time,
20 Defendants, and each of them, retaliated against Coyne by transferring her to the Juvenile
21 Delinquency Branch as retaliation for her opposition and/or complaints about gender
22 discrimination that she reasonably believed violated relevant provisions of Title VII

23 36. As a further direct and proximate result of Defendants' conduct, Coyne has
24 suffered the loss of promotion and supervisory opportunities, severe psychological and
25 emotional injury, mental distress and shock, humiliation, chagrin, worry, and oppression of a
26 lasting nature. The full amount of the Coyne's damages are unknown, but are within the
27 jurisdiction of this Superior Court.

28 37. Coyne has exhausted all necessary administrative remedies by filing complaints
of discrimination and retaliation with the Equal Employment Opportunity Commission, and

1 receiving right-to-sue letters.

2 38. As a further direct and proximate result of Defendants' conduct, Coyne has been
3 required to obtain legal counsel to protect her rights, and have thereby incurred attorneys' fees in
4 an amount to be proven at the time of trial. Pursuant to 42 USC § 2000e-5(k) Coyne requests an
5 award of reasonable attorneys' fees against Defendants

6

7 WHEREFORE, Plaintiff KATHLEEN A. COYNE prays for judgment against
8 Defendants, and each of them, as follows:

9 1. For general damages according to proof;
10 2. For special damages according to proof;
11 3. For attorney's fees pursuant to Government Code Section 12965(b) and 42 USC
12 § 2000e-5(k);
13 4. For costs of suit herein incurred;
14 5. For interest as permitted by law; and
15 6. For such other and further relief as the Court deems just and proper

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LAW OFFICE OF MARK ALAN BENNETT

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21 Dated : February 29, 2008

By:



MARK A. BENNETT
Attorney for Plaintiff
KATHLEEN A. COYNE

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Kathleen A. Coyne v. County of San Diego, et al.;
San Diego Superior Court No. 37-2008-00078991-CU-OE-CTL;
4th District Court of Appeal No. _____

PROOF OF SERVICE BY MAIL

I, Valerie Palid, declare:

I am over the age of eighteen years and not a party to the case; I am employed in, or am a resident of, the County of San Diego, California where the mailing occurs; and my business address is: 1600 Pacific Highway, Room 355, San Diego, California.

I further declare that I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service; and that the correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business.

I caused to be served the following document: **Civil Cover Sheet & Notice of Removal** by placing a true copy of each document in a separate envelope addressed to each addressee, respectively, as follows:

Mark A. Bennett, Esq.
Law Office of Mark Alan Bennett
1111 Sixth Avenue, Suite 404
San Diego, California 92101
Tel. (619) 237-5308
Fax. (619) 237-5309
(Attorneys for Plaintiff Kathleen A. Coyne)

I then sealed each envelope and, with the postage thereon fully prepaid, I placed each for deposit in the United States Postal Service, this same day, at my business address shown above, following ordinary business practices.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 8, 2008, at San Diego, California.

Valerie Palid

VALERIE PALID

**UNITED STATES
DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

**# 149504 - SR
* * C O P Y * *
April 08, 2008
16:05:50**

Civ Fil Non-Pris

USAID #: 08CV0639 CIV. FIL
Judge...: JANIS L. SAMMARTINO
Amount.: \$350.00 CK
Check#: BC#4855797

Total-> \$350.00

FROM: COYNE V. COUNTY OF SAN DIEGO
CIVIL FILING